

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 7862 of 1999****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JHAVERI**

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POPATDAN DEVIDAN GADHVI - Appellant(s)
Versus
GIRDHARBHAI KACHARABHAI BRAHMAN & 2 - Defendant(s)

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Appearance :

MR ANSHIN H DESAI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 3.
MS MEGHA JANI for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**Date : 18/08/2006****ORAL JUDGMENT**

1. This is an appeal under section 173 of the Motor vehicles Act challenging the judgement and award dated 31.08.1999 passed by the Motor Accident Claims Tribunal (Main), Junagadh, in M.A.C.P. No. 530 of 1987 whereby the same is partly allowed.

2. The short facts of the case are that on 15.04.1997 an accident occurred between Maruti Car bearing Registration No. GJ-11-A-9665 and Truck bearing Registration No. GJ-2-T-6193. Therefore the appellant claimed Rs. 25,000/- by way of compensation. Tribunal

after hearing the parties passed the aforesaid order.

3. Learned advocate for the appellant has submitted that the Tribunal has erroneously come to the conclusion that 50% of the amount is to be given because there is no finding of the Tribunal supporting this stand of Tribunal and therefore, in the absence of any such stand or reasons or findings of the Tribunal the M.A.C.P. 530 of 1997 deserves to be allowed in toto.

4. Heard. I have gone through the judgement and award of the Tribunal. In view of the decision in the case of ***M.R. Narahari Pandit Vs. Veenadevi Jalan and another reported in 1997 ACJ 245*** wherein it is held in paragraph 6 that the vehicle in question is of 1970 model and was roadworthy, hence not required to be replaced. On the other hand, the vehicle was repaired by replacing new spare parts and the actual cost of new spares was to be given to the owner of the vehicle. Under these circumstances the deduction of 50% of the value of spares is not correct which calls for interference.

5. In view of the aforesaid decision I am of the view that the appellant is entitled for an amount of **Rs. 17,888/-**. Tribunal has already awarded Rs. 10,000/- therefore appellant is entitled for an additional amount

of **Rs. 7,888/-** from the date of application.

6. The award of the Tribunal is modified accordingly.
the appeal is allowed to the aforesaid extent with no
order as to costs.

(K.S.JHAVERI,J.)

Suresh*